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**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

DEBORA HALL,)
) **Case No.:**
Plaintiff,)
)
v.)
) **COMPLAINT AND DEMAND**
CAPITAL ONE,) **FOR JURY TRIAL**
)
Defendant.)

COMPLAINT

DEBORA HALL (“Plaintiff”), by and through her attorneys, KIMMEL & SILVERMAN, P.C., alleges the following against CAPITAL ONE (“Defendant”):

INTRODUCTION

1. Plaintiff’s Complaint is based on the Telephone Consumer Protection Act (“TCPA”), 47 U.S.C. § 227 *et seq.*

JURISDICTION AND VENUE

2. Jurisdiction of this Court arises pursuant to 28 U.S.C. § 1331. See Mims v. Arrow Fin. Services, LLC, 132 S. Ct. 740, 747, 181 L. Ed. 2d 881 (2012).

3. Defendant conducts business in the Commonwealth of Pennsylvania and as such, personal jurisdiction is established.

4. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2).

PARTIES

5. Plaintiff is a natural person residing in Philadelphia, PA.

6. Plaintiff is a “person” as that term is defined by 47 U.S.C. § 153(39).

7. Defendant is a corporation that has its mailing address located at 1680 Capital One Drive, Mclean, VA 22101.

8. Defendant is a “person” as that term is defined by 47 U.S.C. §153(39).

9. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

FACTUAL ALLEGATIONS

10. Plaintiff has a cellular telephone number that she has had for more than one year.

11. Plaintiff has only used this number as a cellular telephone number.

12. Beginning in or around June 2014, Defendant placed repeated calls to Plaintiff’s cellular telephone.

13. During this time Defendant contacted Plaintiff using an automatic telephone dialing system and automatic and/or pre-recorded messages.

14. Plaintiff knew Defendant was using an automatic telephone dialing system and automatic and/or pre-recorded messages as Defendant’s calls began

1 with a prerecorded message from Capital One before she would be transferred to a
2 live caller.

3 15. Defendant's harassing calls derived from numbers including, but not
4 limited to (800) 955-6600. The undersigned has confirmed that this number
5 belongs to the Defendant.
6

7 16. Defendant's telephone calls were not made for "emergency purposes;"
8 rather, rather Defendant was attempting to collect an account balance.
9

10 17. On several occasions, beginning in March 2015 and thereafter,
11 Plaintiff spoke with Defendant and revoked any consent that may have been
12 previously given to Defendant to call her cellular telephone number.
13

14 18. Defendant proceeded to ignore Plaintiff's revocation and call her
15 cellular telephone number through April 2016.
16

17 19. After Defendant continued to call Plaintiff repeatedly on her cellular
18 telephone, Plaintiff was forced to block calls from Defendant's phone numbers.
19

20 20. Upon information and belief, Defendant conducts business in a
21 manner which violates the Telephone Consumer Protection Act.
22

23 **DEFENDANT VIOLATED THE**
24 **TELEPHONE CONSUMER PROTECTION ACT**
25

21. Plaintiff incorporates the forgoing paragraphs as though the same were
set forth at length herein.

1 22. Defendant initiated automated calls to Plaintiff using an automatic
2 telephone dialing system and automatic and/or pre-recorded messages.

3 23. Defendant's calls to Plaintiff were not made for emergency purposes.

4 24. Defendant's calls to Plaintiff, in and after March 2015, were not made
5 with Plaintiff's prior express consent.
6

7 25. Defendant's acts as described above were done with malicious,
8 intentional, willful, reckless, wanton and negligent disregard for Plaintiff's rights
9 under the law and with the purpose of harassing Plaintiff.
10

11 26. The acts and/or omissions of Defendant were done unfairly,
12 unlawfully, intentionally, deceptively and fraudulently and absent bona fide error,
13 lawful right, legal defense, legal justification or legal excuse.
14

15 27. As a result of the above violations of the TCPA, Plaintiff has suffered
16 the losses and damages as set forth above entitling Plaintiff to an award of
17 statutory, actual and trebles damages.
18

19 **PRAYER FOR RELIEF**

20 WHEREFORE, Plaintiff, DEBORA HALL, respectfully prays for a
21 judgment as follows:

- 22 a. All actual damages suffered pursuant to 47 U.S.C. §
23 227(b)(3)(A);
24
25

- 1 b. Statutory damages of \$500.00 per violative telephone call
2 pursuant to 47 U.S.C. § 227(b)(3)(B);
3 c. Treble damages of \$1,500.00 per violative telephone call
4 pursuant to 47 U.S.C. §227(b)(3);
5 d. Injunctive relief pursuant to 47 U.S.C. § 227(b)(3);
6 e. Any other relief deemed appropriate by this Honorable Court.
7

8 **DEMAND FOR JURY TRIAL**

9 PLEASE TAKE NOTICE that Plaintiff, DEBORA HALL, demands a jury
10 trial in this case.
11

12 RESPECTFULLY SUBMITTED,
13

14 DATED: 7/26/2016

15 KIMMEL & SILVERMAN, P.C.

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